



General Assembly

**Substitute Bill No. 960**

January Session, 2019



**AN ACT CONCERNING THE PUBLIC UTILITIES REGULATORY AUTHORITY'S REVIEW OF CLAIMS ARISING FROM CONTRACTS PREVIOUSLY APPROVED BY THE AUTHORITY, PERSONS INVOLVED IN THE TRANSPORTATION OF NATURAL GAS AND REQUIREMENTS FOR OPERATOR QUALIFICATION OF INDIVIDUALS PERFORMING COVERED TASKS ON A PIPELINE FACILITY, CALL BEFORE YOU DIG PROGRAM VIOLATIONS AND FINES AND THE PUBLIC UTILITIES REGULATORY POLICIES ACT.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-35 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) Any person, including, but not limited to, a company, town, city,  
4 borough or corporation aggrieved by any order, authorization or  
5 decision of the Public Utilities Regulatory Authority, except an order,  
6 authorization or decision of the authority approving the taking of land,  
7 in any matter to which such person was or ought to have been made a  
8 party or intervenor, may appeal therefrom in accordance with the  
9 provisions of section 4-183, provided any person who is party to a  
10 contract described in subsection (d) of this section shall first bring their  
11 claim to the authority pursuant to said subsection. Such person so  
12 appealing shall give bond to the state, with sufficient surety, for the  
13 benefit of the adverse party, in such sum as the authority fixes, to pay  
14 all costs in case such person fails to sustain such appeal. No

15 municipality or political subdivision shall be determined not to be  
16 aggrieved solely because there are other persons who are similarly  
17 affected by the order, authorization or decision of the authority.

18 (b) Any person who may appeal an order, authorization or decision  
19 of the authority under subsection (a) of this section who was an  
20 intervenor or, after timely application, was denied intervenor status to  
21 the authority proceeding, shall be limited to raise on appeal only those  
22 issues that (1) such person addressed during the proceeding or were  
23 addressed in the final decision, or (2) such person raised in his request  
24 for intervenor status if he was denied intervenor status.

25 (c) Notwithstanding any provision of this title and title 16a,  
26 proceedings in which the Public Utilities Regulatory Authority  
27 conducts a request for proposals or any other procurement process for  
28 the purpose of acquiring electricity products or services for the benefit  
29 of ratepayers shall be uncontested.

30 (d) (1) The first dispute arising from a contract that is approved by  
31 the Public Utilities Regulatory Authority on or after the effective date  
32 of this section where (A) the contract was approved by the authority  
33 pursuant to section 16-19hh, 16-243m, 16-243u, 16-244r, 16-244s, 16-  
34 244t, 16-244y, 16a-3b, 16a-3f, 16a-3g, 16a-3h, 16a-3i, 16a-3j, 16a-3k, 16a-  
35 3l or 16a-3m, (B) a public service company is a party to the contract, (C)  
36 the contract price is funded by ratepayers, and (D) the purpose of the  
37 contract is for the public service company to purchase products and  
38 services for the benefit of ratepayers, shall be brought by a party to  
39 such contract to the authority. A party may petition the authority for a  
40 declaratory ruling or make an application for review pursuant to this  
41 subsection or the section of the general statutes that governs such  
42 contract. Notwithstanding subsection (a) of section 4-176, the authority  
43 may not on its own motion initiate a proceeding to review a contract  
44 described in this subsection.

45 (2) The authority shall review such contract claims brought  
46 pursuant to subdivision (1) of this subsection. The authority shall

47 decide such contract claims by issuing a declaratory ruling or a final  
48 decision in a contested case proceeding, including ordering legal and  
49 equitable contract remedies. Any party to such contract shall have the  
50 right to appeal to the Superior Court from any such declaratory ruling  
51 or final decision adjudicating such contract claims pursuant to  
52 subsection (a) of this section.

53 Sec. 2. Section 16-7 of the general statutes is repealed and the  
54 following is substituted in lieu thereof (*Effective from passage*):

55 The utility commissioners of the Public Utilities Regulatory  
56 Authority, or their designees, while engaged in the performance of  
57 their duties may, at all reasonable times, enter any premises, buildings,  
58 cars, plants or other places belonging to or controlled by any public  
59 service company, [or] electric supplier or person involved in the  
60 transportation of gas, as such terms are defined in section 16-280a, and  
61 any person obstructing or in any way causing to be obstructed or  
62 hindered any utility commissioner of the Public Utilities Regulatory  
63 Authority or employee of the Public Utilities Regulatory Authority in  
64 the performance of his or her duties shall be fined not more than two  
65 hundred dollars or imprisoned not more than six months, or both.

66 Sec. 3. Section 16-8a of the general statutes is repealed and the  
67 following is substituted in lieu thereof (*Effective from passage*):

68 (a) No public service company, as defined in section 16-1, as  
69 amended by this act, holding company, as defined in section 16-47,  
70 person involved in the transportation of gas, as such terms are defined  
71 in section 16-280a, or Nuclear Regulatory Commission licensee  
72 operating a nuclear power generating facility in this state, or person,  
73 firm, corporation, contractor or subcontractor directly or indirectly  
74 providing goods or services to such public service company, holding  
75 company, person involved in the transportation of gas, as such terms  
76 are defined in section 16-280a, or licensee, may take or threaten to take  
77 any retaliatory action against an employee for the employee's  
78 disclosure of (1) any matter involving the substantial misfeasance,

79 malfeasance or nonfeasance in the management of such public service  
80 company, holding company, person involved in the transportation of  
81 gas, as such terms are defined in section 16-280a, or licensee, or (2)  
82 information pursuant to section 31-51m. Any employee found to have  
83 knowingly made a false disclosure shall be subject to disciplinary  
84 action by the employee's employer, up to and including dismissal.

85 (b) Any employee of such a public service company, holding  
86 company, person involved in the transportation of gas, as such terms  
87 are defined in section 16-280a, or licensee, or of any person, firm,  
88 corporation, contractor or subcontractor directly or indirectly  
89 providing goods or services to such a public service company, holding  
90 company, person involved in the transportation of gas, as such terms  
91 are defined in section 16-280a, or licensee, having knowledge of any of  
92 the following may transmit all facts and information in the employee's  
93 possession to the Public Utilities Regulatory Authority: (1) Any matter  
94 involving substantial misfeasance, malfeasance or nonfeasance in the  
95 management of such public service company, holding company,  
96 person involved in the transportation of gas, as such terms are defined  
97 in section 16-280a, or licensee; or (2) any matter involving retaliatory  
98 action or the threat of retaliatory action taken against an employee  
99 who has reported the misfeasance, malfeasance or nonfeasance, in the  
100 management of such public service company, holding company,  
101 person involved in the transportation of gas, as such terms are defined  
102 in section 16-280a, or licensee. With regard to any matter described in  
103 subdivision (1) of this subsection, the authority shall investigate such  
104 matter in accordance with the provisions of section 16-8 and shall not  
105 disclose the identity of such employee without the employee's consent  
106 unless it determines that such disclosure is unavoidable during the  
107 course of the investigation. With regard to any matter described in  
108 subdivision (2) of this subsection, the matter shall be handled in  
109 accordance with the procedures set forth in subsections (c) and (d) of  
110 this section.

111 (c) (1) Not more than ninety business days after receipt of a written

112 complaint, in a form prescribed by the authority, by an employee  
113 alleging the employee's employer has retaliated against an employee  
114 in violation of subsection (a) of this section, the authority shall make a  
115 preliminary finding in accordance with this subsection.

116 (2) Not more than five business days after receiving a written  
117 complaint, in a form prescribed by the authority, the authority shall  
118 notify the employer by certified mail. Such notification shall include a  
119 description of the nature of the charges and the substance of any  
120 relevant supporting evidence. The employer may submit a written  
121 response and both the employer and the employee may present  
122 rebuttal statements in the form of affidavits from witnesses and  
123 supporting documents and may meet with the authority informally to  
124 respond verbally about the nature of the employee's charges. The  
125 authority shall consider in making its preliminary finding as provided  
126 in subdivision (3) of this subsection any such written and verbal  
127 responses, including affidavits and supporting documents, received by  
128 the authority not more than twenty business days after the employer  
129 receives such notice. Any such response received after twenty business  
130 days shall be considered by the authority only upon a showing of good  
131 cause and at the discretion of the authority. The authority shall make  
132 its preliminary finding as provided in subdivision (3) of this subsection  
133 based on information described in this subdivision, without a public  
134 hearing.

135 (3) Unless the authority finds by clear and convincing evidence that  
136 the adverse employment action was taken for a reason unconnected  
137 with the employee's report of substantial misfeasance, malfeasance or  
138 nonfeasance, there shall be a rebuttable presumption that an employee  
139 was retaliated against in violation of subsection (a) of this section if the  
140 authority finds that: (A) The employee had reported substantial  
141 misfeasance, malfeasance or nonfeasance in the management of the  
142 public service company, holding company, person involved in the  
143 transportation of gas, as such terms are defined in section 16-280a, or  
144 licensee; (B) the employee was subsequently discharged, suspended,

145 demoted or otherwise penalized by having the employee's status of  
146 employment changed by the employee's employer; and (C) the  
147 subsequent discharge, suspension, demotion or other penalty followed  
148 the employee's report closely in time.

149 (4) If such findings are made, the authority shall issue an order  
150 requiring the employer to immediately return the employee to the  
151 employee's previous position of employment or an equivalent position  
152 pending the completion of the authority's full investigatory proceeding  
153 pursuant to subsection (d) of this section.

154 (d) Not later than thirty days after making a preliminary finding in  
155 accordance with the provisions of subsection (c) of this section, the  
156 authority shall initiate a full investigatory proceeding in accordance  
157 with the provisions of section 16-8, at which time the employer shall  
158 have the opportunity to rebut the presumption. The authority may  
159 issue orders, impose civil penalties, order payment of back pay or  
160 award attorneys' fees in a manner that conforms with the notice and  
161 hearing provisions in section 16-41, as amended by this act, against a  
162 public service company, holding company, person involved in the  
163 transportation of gas, as such terms are defined in section 16-280a, or  
164 licensee or a person, firm, corporation, contractor or subcontractor  
165 directly or indirectly providing goods or services to such public service  
166 company, holding company, person involved in the transportation of  
167 gas, as such terms are defined in section 16-280a, or licensee, in order  
168 to enforce the provisions of this section.

169 (e) If an employee or former employee of such a public service  
170 company, holding company, person involved in the transportation of  
171 gas, as such terms are defined in section 16-280a, or licensee, or of a  
172 person, firm, corporation, contractor or subcontractor directly or  
173 indirectly providing goods or services to such a public service  
174 company, holding company, person involved in the transportation of  
175 gas, as such terms are defined in section 16-280a, or licensee, having  
176 knowledge of any matter involving the substantial misfeasance,  
177 malfeasance or nonfeasance in the management of such public service

178 company, holding company, person involved in the transportation of  
179 gas, as such terms are defined in section 16-280a, or licensee, enters  
180 into an agreement with the employee's employer that contains a  
181 provision directly or indirectly discouraging the employee from  
182 presenting a written complaint or testimony concerning such  
183 misfeasance, malfeasance or nonfeasance in any legislative,  
184 administrative or judicial proceeding, such provision shall be void as  
185 against public policy.

186 (f) The Public Utilities Regulatory Authority shall adopt regulations,  
187 in accordance with chapter 54, to carry out the provisions of this  
188 section. Such regulations shall include the following: (1) The  
189 procedures by which a complaint may be brought pursuant to  
190 subsection (a) of this section; (2) the time period in which such a  
191 complaint may be brought; (3) the time period by which the authority  
192 shall render a decision pursuant to subsection (d) of this section; (4) the  
193 form on which written complaints shall be submitted to the authority  
194 by an employee pursuant to subsection (c) of this section; and (5) the  
195 requirement that a notice be posted in the workplace informing all  
196 employees of any public service company, holding company, person  
197 involved in the transportation of gas, as such terms are defined in  
198 section 16-280a, and licensee and of any person, firm, corporation,  
199 contractor or subcontractor directly or indirectly providing goods or  
200 services to a company or licensee, as defined in subsection (b) of this  
201 section, of their rights under this section, including the right to be  
202 reinstated in accordance with subsection (c) of this section.

203 Sec. 4. Section 16-11 of the general statutes is repealed and the  
204 following is substituted in lieu thereof (*Effective from passage*):

205 The Public Utilities Regulatory Authority shall, so far as is  
206 practicable, keep fully informed as to the condition of the plant,  
207 equipment and manner of operation of all public service companies  
208 and persons involved in the transportation of gas, as such terms are  
209 defined in section 16-280a, in respect to their adequacy and suitability  
210 to accomplish the duties imposed upon such companies by law and in

211 respect to their relation to the safety of the public and of the employees  
212 of such companies. The authority may order such reasonable  
213 improvements, repairs or alterations in such plant or equipment, or  
214 such changes in the manner of operation, as may be reasonably  
215 necessary in the public interest. The general purposes of this section  
216 and sections 16-19, 16-25, 16-43 and 16-47 are to assure to the state of  
217 Connecticut its full powers to regulate its public service companies, to  
218 increase the powers of the Public Utilities Regulatory Authority and to  
219 promote local control of the public service companies of this state, and  
220 said sections shall be so construed as to effectuate these purposes.

221 Sec. 5. Section 16-16 of the general statutes is repealed and the  
222 following is substituted in lieu thereof (*Effective from passage*):

223 Each public service company, [and] electric supplier and person  
224 involved in the transportation of gas, as such terms are defined in  
225 section 16-280a, subject to regulation by the Public Utilities Regulatory  
226 Authority shall, in the event of any accident attended with personal  
227 injury or involving public safety, which was or may have been  
228 connected with or due to the operation of its or his property, or caused  
229 by contact with the wires of any public service company or electric  
230 supplier, notify the authority thereof, by telephone or otherwise, as  
231 soon as may be reasonably possible after the occurrence of such  
232 accident, unless such accident is a minor accident, as defined by  
233 regulations of the authority. Each such person, company or electric  
234 supplier shall report such minor accidents to the authority in writing,  
235 in summary form, once each month. If notice of such accident, other  
236 than a minor accident, is given otherwise than in writing, it shall be  
237 confirmed in writing within five days after the occurrence of such  
238 accident. Any person, company or electric supplier failing to comply  
239 with the provisions of this section shall be fined not more than five  
240 hundred dollars for each offense.

241 Sec. 6. Subsection (a) of section 16-41 of the general statutes is  
242 repealed and the following is substituted in lieu thereof (*Effective from*  
243 *passage*):

244 (a) Each (1) public service company and its officers, agents and  
245 employees, (2) electric supplier or person providing electric generation  
246 services without a license in violation of section 16-245, and its officers,  
247 agents and employees, (3) certified telecommunications provider or  
248 person providing telecommunications services without authorization  
249 pursuant to sections 16-247f to 16-247h, inclusive, and its officers,  
250 agents and employees, (4) person, public agency or public utility, as  
251 such terms are defined in section 16-345, subject to the requirements of  
252 chapter 293, (5) person subject to the registration requirements under  
253 section 16-258a, (6) cellular mobile telephone carrier, as described in  
254 section 16-250b, (7) Connecticut electric efficiency partner, as defined  
255 in section 16-243v, (8) company, as defined in section 16-49, as  
256 amended by this act, [and] (9) entity approved to submeter pursuant to  
257 section 16-19ff, and (10) person involved in the transportation of gas,  
258 as such terms are defined in section 16-280a, shall obey, observe and  
259 comply with all applicable provisions of this title and each applicable  
260 order made or applicable regulations adopted by the Public Utilities  
261 Regulatory Authority by virtue of this title as long as the same remains  
262 in force. Any such company, electric supplier, certified  
263 telecommunications provider, cellular mobile telephone carrier,  
264 Connecticut electric efficiency partner, entity approved to submeter,  
265 person, any officer, agent or employee thereof, public agency or public  
266 utility which the authority finds has failed to obey or comply with any  
267 such provision of this title, order or regulation shall be fined by order  
268 of the authority in accordance with the penalty prescribed for the  
269 violated provision of this title or, if no penalty is prescribed, not more  
270 than ten thousand dollars for each offense, except that the penalty shall  
271 be a fine of not more than forty thousand dollars for failure to comply  
272 with an order of the authority made in accordance with the provisions  
273 of section 16-19 or 16-247k or within thirty days of such order or  
274 within any specific time period for compliance specified in such order.  
275 Each distinct violation of any such provision of this title, order or  
276 regulation shall be a separate offense and, in case of a continued  
277 violation, each day thereof shall be deemed a separate offense. Each  
278 such penalty and any interest charged pursuant to subsection (g) or (h)

279 of section 16-49, as amended by this act, shall be excluded from  
280 operating expenses for purposes of rate-making.

281 Sec. 7. Section 16-280e of the general statutes is repealed and the  
282 following is substituted in lieu thereof (*Effective from passage*):

283 (a) Any person that violates any provision of the federal act, any  
284 regulation issued under the federal act, any provision of this chapter or  
285 any regulation adopted by the authority pursuant to subsection (b) or  
286 (c) of section 16-280b, shall be subject to a civil penalty not to exceed  
287 the higher of the maximum civil penalty provided under 49 USC  
288 60122(a), as amended, or 49 CFR 190.223(a), as amended from time to  
289 time.

290 (b) Any such civil penalty may be compromised by the Public  
291 Utilities Regulatory Authority. In determining the amount of such  
292 penalty, or the amount agreed upon in compromise, the authority shall  
293 consider the criteria set forth in 49 USC 60122(b), as amended.

294 (c) Nothing in this section shall be construed to limit the penalties  
295 available under section 16-33.

296 Sec. 8. (NEW) (*Effective from passage*) (a) For purposes of this section:

297 (1) "Covered task" means an activity that is performed on a pipeline  
298 facility and that affects the safety or integrity of the pipeline; and

299 (2) "Evaluation" means a process, established and documented by  
300 the operator, to determine an individual's ability to perform a covered  
301 task by a (A) a written or oral examination, and (B) observation during  
302 performance on the job or simulations.

303 (b) In addition to the minimum requirements for operator  
304 qualification of individuals performing covered tasks on a pipeline  
305 facility pursuant to 49 CFR 192, Subpart N, the requirements of this  
306 section shall be applicable to such operators in the state.

307 (c) Each operator shall:

308 (1) Evaluate an individual if the operator has reason to believe that  
309 the individual did not correctly perform a covered task;

310 (2) Train all individuals to ensure that individuals performing  
311 covered tasks have the necessary knowledge and skills to perform  
312 covered tasks in a manner that ensures the safe operation of pipeline  
313 facilities;

314 (3) Document in a plan the training requirements, including, but not  
315 limited to, the minimum training time for each covered task;

316 (4) Conduct evaluations more than forty-eight hours after training;

317 (5) Ensure that the evaluation process is performed by operator  
318 personnel or independent third-party contractors;

319 (6) Ensure that the evaluation process evaluates task-specific  
320 abnormal operating conditions;

321 (7) Ensure that inspectors are qualified for the covered tasks they  
322 are inspecting;

323 (8) Ensure that the training and evaluation process is specific to the  
324 operator's plans, procedures and standards; and

325 (9) Ensure that the written qualification program includes a training  
326 and evaluation process for personnel performing engineering tasks.

327 Sec. 9. (NEW) (*Effective from passage*) (a) Any person involved in the  
328 transportation of gas, as such terms are defined in section 16-280a of  
329 the general statutes, except persons involved in the transportation of  
330 propane, shall utilize geographic information systems to map all of  
331 such person's pipeline facilities, as defined in section 16-280a of the  
332 general statutes.

333 (b) Any person involved in the transportation of gas, as such terms

334 are defined in section 16-280a of the general statutes, except persons  
335 involved in the transportation of propane, shall provide remote real-  
336 time, read-only access to all of such person's electronic systems, if the  
337 authority determines that such access will be beneficial in keeping the  
338 authority fully informed as to the condition of a plant, equipment and  
339 manner of operation pursuant to section 16-11 of the general statutes,  
340 as amended by this act.

341 Sec. 10. (NEW) (*Effective from passage*) On or before October 1, 2019,  
342 and on or before October first of each year thereafter, any person  
343 involved in the transportation of gas, as such terms are defined in  
344 section 16-280a of the general statutes, except persons involved in the  
345 transportation of natural gas, shall submit to the authority, on a form  
346 prescribed by the authority, information the authority deems relevant  
347 about such person's propane distribution systems that are subject to  
348 the jurisdiction of the authority. Any changes to such information  
349 submitted shall be submitted to the authority within thirty days of  
350 such change.

351 Sec. 11. Section 16-356 of the general statutes is repealed and the  
352 following is substituted in lieu thereof (*Effective from passage*):

353 Any person, public agency or public utility which the Public  
354 Utilities Regulatory Authority determines, after notice and  
355 opportunity for a hearing as provided in section 16-41, as amended by  
356 this act, to have failed to comply with any provision of this chapter or  
357 any regulation adopted under section 16-357 shall forfeit and pay to  
358 the state a civil penalty of not more than forty thousand dollars,  
359 provided any violation involving the failure of a public utility to mark  
360 any approximate location of an underground utility facility correctly  
361 or within the time frames prescribed by regulation, which violation  
362 did not result in any property damage or personal injury and was not  
363 the result of an act of gross negligence on the part of the public utility,  
364 shall not result in a civil penalty of more than one thousand dollars.  
365 Any civil penalty assessed for any violation involving the failure of a  
366 public utility to properly or timely mark any approximate location of

367 an underground facility shall be paid by the person, public agency or  
368 public utility to whom the notice is addressed. If any such person,  
369 public agency or public utility recovers any portion of the penalty from  
370 any person, the authority may direct such person, public agency or  
371 public utility to forfeit such recovered penalty, as provided in such  
372 notice. Notwithstanding the provisions contained in subsection (d) of  
373 section 16-41, the person, public agency or public utility receiving a  
374 notice of violation pursuant to subsection (c) of section 16-41 shall have  
375 thirty days from the date of receipt of the notice in which to deliver to  
376 the authority a written application for a hearing.

377 Sec. 12. Section 16-243a of the general statutes is repealed and the  
378 following is substituted in lieu thereof (*Effective from passage*):

379 [(a) As used in this section, "avoided costs" means the incremental  
380 costs to an electric public service company, municipal electric energy  
381 cooperative organized under chapter 101a or municipal electric utility  
382 organized under chapter 101, of electric energy or capacity or both  
383 which, but for the purchase from a private power producer, as defined  
384 in section 16-243b, such company, cooperative or utility would  
385 generate itself or purchase from another source.

386 (b) Each electric public service company, municipal electric energy  
387 cooperative and municipal electric utility shall: (1) Purchase any  
388 electrical energy and capacity made available, directly by a private  
389 power producer or indirectly under subdivision (4) of this subsection;  
390 (2) sell backup electricity to any private power producer in its service  
391 territory; (3) make such interconnections in accordance with the  
392 regulations adopted pursuant to subsection (h) of this section  
393 necessary to accomplish such purchases and sales; (4) upon approval  
394 by the Public Utilities Regulatory Authority of an application filed by a  
395 willing private power producer, transmit energy or capacity from the  
396 private power producer to any other such company, cooperative or  
397 utility or to another facility operated by the private power producer;  
398 and (5) offer to operate in parallel with a private power producer. In  
399 making a decision on an application filed under subdivision (4) of this

400 subsection, the authority shall consider whether such transmission  
401 would (A) adversely impact the customers of the company,  
402 cooperative or utility which would transmit energy or capacity to the  
403 private power producer, (B) result in an uncompensated loss for, or  
404 unduly burden, such company, cooperative, utility or private power  
405 producer, (C) impair the reliability of service of such company,  
406 cooperative or utility, or (D) impair the ability of the company,  
407 cooperative or utility to provide adequate service to its customers. The  
408 authority shall issue a decision on such an application not later than  
409 one hundred twenty days after the application is filed, provided, the  
410 authority may, before the end of such period and upon notifying all  
411 parties and intervenors to the proceeding, extend the period by thirty  
412 days. If the authority does not issue a decision within one hundred  
413 twenty days after receiving such an application, or within one hundred  
414 fifty days if the authority extends the period in accordance with the  
415 provisions of this subsection, the application shall be deemed to have  
416 been approved. The requirements under subdivisions (3), (4) and (5) of  
417 this subsection shall be subject to reasonable standards for operating  
418 safety and reliability and the nondiscriminatory assessment of costs  
419 against private power producers, approved by the Public Utilities  
420 Regulatory Authority with respect to electric public service companies  
421 or determined by municipal electric energy cooperatives and  
422 municipal electric utilities.

423 (c) The Public Utilities Regulatory Authority, with respect to electric  
424 public service companies, and each municipal electric energy  
425 cooperative and municipal electric utility shall establish rates and  
426 conditions of service for: (1) The purchase of electrical energy and  
427 capacity made available by a private power producer; and (2) the sale  
428 of backup electricity to a private power producer. The rates for  
429 electricity purchased from a private power producer shall be based on  
430 the full avoided costs of the electric public service company, municipal  
431 electric energy cooperative or municipal electric utility, regardless of  
432 whether the purchaser is simultaneously making sales to the private  
433 power producer. Payment for energy and capacity purchased from a

434 private power producer by any such company, cooperative or utility  
435 shall be pursuant to such rates and conditions or the terms of a  
436 contract between the parties. The rates and conditions of service for the  
437 purchase of energy and capacity established by the authority pursuant  
438 to this subsection shall include specific schedules for pricing in long-  
439 term contracts for the sale of electricity from small renewable power  
440 projects to electric public service companies by private power  
441 producers. Such schedules shall not exceed the present worth of the  
442 projected avoided costs of the electric public service company over the  
443 term of the contract. The authority shall apply to a proposed contract  
444 filed with the authority after January 1, 1992, by a private power  
445 producer for a small renewable power project the rates and conditions  
446 of service, including the pricing schedule, in effect on the date the  
447 private power producer submits its proposed contract to the authority,  
448 regardless of the subsequent creation of differing schedules or the  
449 subsequent amendment of existing schedules.

450 (d) When any person, firm or corporation proposes to enter into a  
451 contract to sell energy and capacity as a private power producer, an  
452 electric public service company, municipal electric energy cooperative  
453 or municipal electric utility shall respond promptly to all requests and  
454 offers and negotiate in good faith to arrive at a contract which fairly  
455 reflects the provisions of this section and the anticipated avoided costs  
456 over the life of the contract. Upon application by a private power  
457 producer, the authority may approve a contract which provides for  
458 payment of less than the anticipated avoided costs if, considering all of  
459 the provisions, the contract is at least as favorable to the private power  
460 producer as a contract providing for the full avoided costs. The  
461 contract may extend for a period of not more than thirty years at the  
462 option of the private power producer if it has a generating facility with  
463 a capacity of at least one hundred kilowatts.

464 (e) The authority shall consider generating capacity available from  
465 cogeneration technology and renewable energy resources in its  
466 periodic reviews of electric public service companies and shall require

467 the companies to include the availability of such capacity in  
468 applications for rate relief filed in accordance with section 16-19a.

469 (f) If a private power producer believes that an electric distribution  
470 company has violated any provision of this section it may submit a  
471 written petition alleging such violation to the authority. Upon receipt  
472 of the petition, the authority shall fix a time and place for a hearing  
473 and mail notice of the hearing to the parties in interest at least one  
474 week in advance. Upon the hearing, the authority may, if it finds the  
475 company has violated any such provision, prescribe the manner in  
476 which it shall comply.

477 (g) After January 1, 1992, the authority shall approve each proposed  
478 contract submitted by a private power producer for a small renewable  
479 power project, with any modifications agreed to by the parties to the  
480 contract, if the filing meets the standards for exemption from the  
481 proposal process and for an approvable contract established pursuant  
482 to section 16-6b, and is consistent with the pricing schedules adopted  
483 pursuant to subsection (c) of this section. Nothing in this section shall  
484 preclude a modification of such a contract if the parties to the contract  
485 agree to the modification. Any such modification shall be approved by  
486 the authority. The authority shall reconsider each decision issued  
487 pursuant to this section between January 1, 1992, and June 29, 1993,  
488 regarding such contracts and shall make any modifications to each  
489 such decision necessary to ensure that each such decision conforms  
490 with the provisions of this section.

491 (h) Not later than January 1, 2008, the Public Utilities Regulatory  
492 Authority shall issue a final decision approving interconnection  
493 standards that meet or exceed national standards of interconnectivity.  
494 If the authority does not issue a final decision by October 1, 2008, each  
495 electric distribution company, municipal electric energy cooperative  
496 and municipal electric utility shall meet the standards set forth in Title  
497 4, Chapter 4, Subchapter 9, "Net Metering and Interconnection  
498 Standards for Class I Renewable Energy Systems" of the New Jersey  
499 Administrative Code.]

500 (a) As used in this title, "PURPA" means the Public Utilities  
501 Regulatory Policies Act of 1978, codified at 18 USC 824a-3, and its  
502 implementing regulations, 18 CFR 292, as amended from time to time,  
503 and "Qualifying Facilities" or "QF" has the same meaning as provided  
504 in 18 CFR 292.101(b)(1).

505 (b) As used in section 16-243b, as amended by this act, "avoided  
506 costs" means the costs avoided by an electric distribution company as a  
507 result of purchasing power or capacity from a qualifying facility, as  
508 approved by the Public Utilities Regulatory Authority in accordance  
509 with section 16-243b, as amended by this act, and that do not result in  
510 costs greater than those which the purchasing electric distribution  
511 company would incur if such electric distribution company did not  
512 make such purchases and instead purchased electricity or capacity  
513 from the regional wholesale electricity markets.

514 Sec. 13. Section 16-243b of the general statutes is repealed and the  
515 following is substituted in lieu thereof (*Effective from passage*):

516 [(a) As used in this title:

517 (1) "Private power production facility" means a facility which  
518 generates electricity in the state (A) solely through the use of  
519 cogeneration technology, provided the average useful thermal energy  
520 output of the facility is at least twenty per cent of the total energy  
521 output of the facility, (B) solely through the use of renewable energy  
522 sources, or (C) through both only;

523 (2) "Useful thermal energy output" means the thermal energy made  
524 available for use in any industrial or commercial process, or used in  
525 any heating or cooling application;

526 (3) "Private power producer" means (A) a subsidiary of a gas public  
527 service company which is not affiliated with an electric public service  
528 company, or a subsidiary of a holding company controlling, directly or  
529 indirectly, a gas public service company but not an electric public  
530 service company, which generates electricity solely through ownership

531 of fifty per cent or less of a private power production facility or, with  
532 the approval of the Public Utilities Regulatory Authority, through  
533 ownership of one hundred per cent of a private power production  
534 facility which (i) uses a source of energy other than gas as the primary  
535 energy source of the facility, or (ii) uses gas as the primary energy  
536 source of the facility and uses an improved and innovative technology  
537 which furthers the state energy policy as set forth in section 16a-35k,  
538 (B) a subsidiary of any other public service company or a subsidiary of  
539 a holding company controlling, directly or indirectly, such a public  
540 service company, which generates electricity solely through ownership  
541 of fifty per cent or less of a private power production facility, (C) the  
542 state, a political subdivision of the state or any other person, firm or  
543 corporation other than a public service company or any corporation  
544 which was a public service company, prior to July 1, 1981, and which  
545 consents to be regulated as a public service company or a holding  
546 company for a public service company, which generates electricity  
547 solely through ownership of one hundred per cent or less of a private  
548 power production facility, or (D) any combination thereof;

549 (4) "Private power provider" means any person, firm, corporation,  
550 nonprofit corporation, limited liability company, governmental entity,  
551 or other entity, including any public service company, holding  
552 company, or subsidiary, which provides energy conservation or  
553 demand management measures pursuant to section 16-243f and  
554 regulations and orders issued hereunder, which replace the need for  
555 electricity generating capacity that electric public service companies  
556 would otherwise require;

557 (5) "Electricity conservation or demand management measures"  
558 means the provision pursuant to this section and section 16-243f and  
559 regulations and orders adopted hereunder by a private power  
560 provider to an electric public service company or its customers of  
561 equipment or services or both designed to conserve electricity or to  
562 manage electricity load; and

563 (6) "Small renewable power project" means any private power

564 production facility which has a capacity of five megawatts or less and  
565 is fueled by a renewable resource, as defined in section 16a-2, other  
566 than wood.

567 (b) No provision of this section shall limit the jurisdiction of the  
568 Public Utilities Regulatory Authority with regard to the effects on a  
569 public service company of a private power producer which is an  
570 affiliate or a subsidiary of the public service company.]

571 (a) Each electric distribution company shall file with the Public  
572 Utilities Regulatory Authority for review and approval three pro  
573 forma tariffs for the purchase of energy and capacity from eligible  
574 qualifying facilities from which the electric distribution company is  
575 obligated to purchase energy or capacity pursuant to 18 CFR 292.303.  
576 Tariffs required pursuant to this section shall address each of the  
577 following types of PURPA transactions: (1) Energy-only qualifying  
578 facility sales; (2) capacity-only qualifying facility sales; and (3) energy  
579 and capacity qualifying facility sales.

580 (b) The Public Utilities Regulatory Authority shall conduct an  
581 uncontested proceeding to review tariffs submitted pursuant to  
582 subsection (a) of this section. The authority shall approve tariffs that it  
583 determines satisfy the requirements of PURPA and any other  
584 requirements the authority deems appropriate.

585 (c) Each tariff submitted pursuant to subsection (a) of this section  
586 shall establish a process by which qualifying facilities may elect to be  
587 compensated either: (1) Based on avoided costs calculated at the time  
588 of delivery; or (2) based on avoided costs forecasted at the time an  
589 obligation to purchase arises pursuant to 18 CFR 292.303.

590 Sec. 14. Subdivision (24) of subsection (b) of section 7-233e of the  
591 general statutes is repealed and the following is substituted in lieu  
592 thereof (*Effective from passage*):

593 (24) To contract for the purchase or exchange of electricity produced  
594 by a [person using cogeneration technology or renewable fuel

595 resources] Qualifying Facility, as defined in [section 16-1] 18 CFR  
596 292.101(b)(1), or for the sale or exchange of electricity produced by the  
597 municipal cooperative to such person, provided such purchase, sale or  
598 exchange [is subject to the rates and conditions of service established  
599 in accordance with section 16-243a] complies with the rates and  
600 conditions of service established in 18 CFR 292;

601 Sec. 15. Section 12-408b of the general statutes is repealed and the  
602 following is substituted in lieu thereof (*Effective from passage*):

603 On and after July 1, 1991, any person, firm or corporation who pays  
604 a sales and use tax, which tax would not have been due prior to July 1,  
605 1991, pursuant to subdivision (39) of section 12-412 of the general  
606 statutes, revision of 1958, revised to January 1991, shall recover the tax  
607 paid by (1) adding such tax to any amounts otherwise payable [under  
608 a sales contract] pursuant to a tariff approved by the Public Utilities  
609 Regulatory Authority pursuant to [subsection (d) of] section 16-243a,  
610 as amended by this act, and (2) amortizing such tax, together with  
611 interest at the rate paid on front-loaded payments, over the life of a  
612 sales contract approved by the department pursuant to said subsection  
613 (d).

614 Sec. 16. Subdivision (3) of subsection (a) of section 16-1 of the  
615 general statutes is repealed and the following is substituted in lieu  
616 thereof (*Effective from passage*):

617 (3) "Public service company" includes electric distribution, gas,  
618 telephone, pipeline, sewage, water and community antenna television  
619 companies and holders of a certificate of cable franchise authority,  
620 owning, leasing, maintaining, operating, managing or controlling  
621 plants or parts of plants or equipment, but shall not include towns,  
622 cities, boroughs, any municipal corporation or department thereof,  
623 whether separately incorporated or not, a [private power producer]  
624 producer Qualifying Facility, as defined in [section 16-243b] 18 CFR  
625 292.101(b)(1), or an exempt wholesale generator, as defined in 15 USC  
626 79z-5a;

627 Sec. 17. Subdivision (23) of subsection (a) of section 16-1 of the  
628 general statutes is repealed and the following is substituted in lieu  
629 thereof (*Effective from passage*):

630 (23) "Electric distribution company" or "distribution company"  
631 means any person providing electric transmission or distribution  
632 services within the state, but does not include: (A) A [private power  
633 producer] Qualifying Facility, as defined in [section 16-243b] 18 CFR  
634 292.101(b)(1); (B) a municipal electric utility established under chapter  
635 101, other than a participating municipal electric utility; (C) a  
636 municipal electric energy cooperative established under chapter 101a;  
637 (D) an electric cooperative established under chapter 597; (E) any other  
638 electric utility owned, leased, maintained, operated, managed or  
639 controlled by any unit of local government under any general statute  
640 or special act; (F) an electric supplier; (G) an entity approved to  
641 submeter pursuant to section 16-19ff; or (H) a municipality, state or  
642 federal governmental entity authorized to distribute electricity across a  
643 public highway or street pursuant to section 16-243aa;

644 Sec. 18. Subsection (a) of section 16-50i of the general statutes is  
645 repealed and the following is substituted in lieu thereof (*Effective from*  
646 *passage*):

647 (a) "Facility" means: (1) An electric transmission line of a design  
648 capacity of sixty-nine kilovolts or more, including associated  
649 equipment but not including a transmission line tap, as defined in  
650 subsection (e) of this section; (2) a fuel transmission facility, except a  
651 gas transmission line having a design capability of less than two  
652 hundred pounds per square inch gauge pressure or having a design  
653 capacity of less than twenty per cent of its specified minimum yield  
654 strength; (3) any electric generating or storage facility using any fuel,  
655 including nuclear materials, including associated equipment for  
656 furnishing electricity but not including an emergency generating  
657 device, as defined in subsection (f) of this section or a facility (A)  
658 [owned and operated by a private power producer, as defined in  
659 section 16-243b, (B) which is a qualifying small power production

660 facility or a qualifying cogeneration facility under the Public Utility  
661 Regulatory Policies Act of 1978, as amended] which is a Qualifying  
662 Facility, as defined in 18 CFR 292.101(b)(1), or a facility determined by  
663 the council to be primarily for a producer's own use, and [(C)] (B)  
664 which has, in the case of a [facility] Qualifying Facility utilizing  
665 renewable energy sources, a generating capacity of one megawatt of  
666 electricity or less and, in the case of a [facility] Qualifying Facility  
667 utilizing cogeneration technology, a generating capacity of twenty-five  
668 megawatts of electricity or less; (4) any electric substation or  
669 switchyard designed to change or regulate the voltage of electricity at  
670 sixty-nine kilovolts or more or to connect two or more electric circuits  
671 at such voltage, which substation or switchyard may have a substantial  
672 adverse environmental effect, as determined by the council established  
673 under section 16-50j, and other facilities which may have a substantial  
674 adverse environmental effect as the council may, by regulation,  
675 prescribe; (5) such community antenna television towers and head-end  
676 structures, including associated equipment, which may have a  
677 substantial adverse environmental effect, as said council shall, by  
678 regulation, prescribe; and (6) such telecommunication towers,  
679 including associated telecommunications equipment, owned or  
680 operated by the state, a public service company or a certified  
681 telecommunications provider or used in a cellular system, as defined  
682 in [the Code of Federal Regulations Title 47, Part 22] 47 CFR 22, as  
683 amended, which may have a substantial adverse environmental effect,  
684 as said council shall, by regulation, prescribe;

685 Sec. 19. Section 16a-49 of the general statutes is repealed and the  
686 following is substituted in lieu thereof (*Effective from passage*):

687 [(a)] The Public Utilities Regulatory Authority shall require each gas  
688 and electric public service company to implement a cost effective  
689 conservation and load management program consistent with  
690 integrated resource planning principles. As part of each conservation  
691 and load management program, the authority shall require specific  
692 programs to target the needs of manufacturers. The authority shall

693 allow the gas or electric public service company either: (1) To earn a  
694 return on prudently incurred multiyear conservation and load  
695 management expenditures on programs and measures approved by  
696 the authority included in the company's rate base and successfully  
697 implemented by the company at a rate at least one percentage point  
698 but no more than five percentage points higher than such company's  
699 rate of return otherwise found to be reasonable; or (2) authorize a  
700 return of at least one percentage point but no more than five  
701 percentage points on the company's prudently incurred conservation  
702 and load management expenditures treated as operating costs on  
703 programs and measures approved by the authority and successfully  
704 implemented by the company. For the purposes of this section,  
705 "conservation and load management expenditures" shall include all  
706 prudent expenditures, approved by the authority by gas or electric  
707 public service companies designed to conserve energy or manage gas  
708 or energy load.

709 [(b) The authority may authorize an electric public service company  
710 a return on such company's expenditures in acquiring energy  
711 conservation or load management measures, approved by the  
712 authority, from private power providers, as defined in section 16-  
713 243b.]

714 Sec. 20. Section 49-4c of the general statutes is repealed and the  
715 following is substituted in lieu thereof (*Effective from passage*):

716 Any mortgage entered into subsequent to July 1, 1986, between a  
717 [private power producer, as defined in section 16-243b, or the owner or  
718 operator of a qualifying facility] Qualifying Facility, as defined in [Part  
719 292 of Title 18 of the Code of Federal Regulations] 18 CFR 292, or a  
720 guarantor of any of their respective obligations, as mortgagor, and an  
721 electric distribution company, as defined in section 16-1, as amended  
722 by this act, as mortgagee, shall be valid to secure all obligations then  
723 existing or thereafter arising of the mortgagor to the mortgagee under  
724 an electricity purchase [agreement] tariff, including, without  
725 limitation, recovery of amounts paid to [the private power producer

726 or] the owner or operator of a [qualifying facility] Qualifying Facility  
727 by the mortgagee in excess of the mortgagee's avoided costs, as  
728 defined in accordance with tariffs approved by the Public Utilities  
729 Regulatory Authority pursuant to section 16-243a, as amended by this  
730 act, and all other damages for failure to deliver electric energy or  
731 capacity or other breach of an electricity purchase agreement,  
732 including, without limitation, the net replacement cost of the capacity  
733 being secured by such mortgage, together with accrued interest, if any,  
734 as computed in accordance with the terms of the electricity purchase  
735 agreement or the mortgage, and under a guarantee of such obligations  
736 or obligations created by the mortgage, and shall have priority over the  
737 rights of others who shall acquire any rights in the property covered  
738 by such mortgage subsequent to the recording of the mortgage in the  
739 land records of the town in which the mortgaged property is situated  
740 provided: (1) The electricity purchase [agreement] tariff is substantially  
741 in the form approved by the Public Utilities Regulatory Authority  
742 pursuant to section 16-243a, as amended by this act, and shall have  
743 been entered into by the mortgagor and mortgagee prior to or  
744 simultaneously with or subsequent to the execution and delivery of the  
745 mortgage, (2) the caption to the mortgage shall contain the words  
746 "Open-End Mortgage" and ["Electricity Purchase Agreement"]  
747 "Electricity Purchase Tariff", (3) the mortgage shall state that it is  
748 entered into to secure the mortgagor's obligations to the mortgagee  
749 under an electricity purchase [agreement] tariff or under a guarantee  
750 of any electricity purchase [agreement] tariff obligations and shall  
751 recite either the address of an office of the mortgagee or its assignee in  
752 the state at which a copy of the electricity purchase [agreement] tariff  
753 is on file and may be inspected by the public during normal business  
754 hours or that the electricity purchase [agreement] tariff has been  
755 recorded, as an exhibit to the mortgage or otherwise, on or before the  
756 date the mortgage is recorded, in the land records of the town in which  
757 the mortgaged property is situated, provided the electricity purchase  
758 [agreement] tariff shall be so recorded, (4) the amount of the obligation  
759 from time to time secured by the mortgage may be determined or  
760 reasonably approximated on the basis of records maintained by the

761 mortgagee or its assignee in the state, which records and an estimate of  
 762 the amount claimed by the mortgagee to be secured are made available  
 763 to the public with reasonable promptness upon written request, and  
 764 (5) the mortgage states the maximum amount which it shall secure.  
 765 Nothing in this section shall invalidate any mortgage which would be  
 766 valid without this section. For purposes of this section, ["electricity  
 767 purchase agreement"] "electricity purchase tariff" means [a contract or]  
 768 an agreement to purchase and sell electric energy or capacity by and  
 769 between [a private power producer, as defined in section 16-243b, or]  
 770 the owner or operator of a [qualifying facility] Qualifying Facility, as  
 771 defined in [Part 292 of Title 18 of the Code of Federal Regulations] 18  
 772 CFR 292.101(b)(1), and an electric distribution company, as defined in  
 773 section 16-1, as amended by this act.

774       Sec. 21. Sections 16-243d, 16-243f and 16-243g of the general statutes  
 775 are repealed. (*Effective from passage*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16-35
Sec. 2	<i>from passage</i>	16-7
Sec. 3	<i>from passage</i>	16-8a
Sec. 4	<i>from passage</i>	16-11
Sec. 5	<i>from passage</i>	16-16
Sec. 6	<i>from passage</i>	16-41(a)
Sec. 7	<i>from passage</i>	16-280e
Sec. 8	<i>from passage</i>	New section
Sec. 9	<i>from passage</i>	New section
Sec. 10	<i>from passage</i>	New section
Sec. 11	<i>from passage</i>	16-356
Sec. 12	<i>from passage</i>	16-243a
Sec. 13	<i>from passage</i>	16-243b
Sec. 14	<i>from passage</i>	7-233e(b)(24)
Sec. 15	<i>from passage</i>	12-408b
Sec. 16	<i>from passage</i>	16-1(a)(3)

Sec. 17	<i>from passage</i>	16-1(a)(23)
Sec. 18	<i>from passage</i>	16-50i(a)
Sec. 19	<i>from passage</i>	16a-49
Sec. 20	<i>from passage</i>	49-4c
Sec. 21	<i>from passage</i>	Repealer section

**Statement of Legislative Commissioners:**

In Sec. 11(a) and in Sec. 14, "Part" was deleted for consistency with standard drafting conventions.

**ET**      *Joint Favorable Subst.*